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MOTION UNDER 28 U.S.C. SECTION 2255
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

FILED

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MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY
A PERSON IN FEDERAL CUSTODY

UNITED STATES

) 08CV 1100
) JUDGE DER-YEGHIAYAN
) MAGISTRATE JUDGE KEYS
)

v.

) CASE NO. _____
) (To be supplied by clerk)
)
)
)

) Fernandez-Reyes, Gilberto 92799-098
) (Full name and prison number of
) movant)
)

IF THE MOVANT HAS A SENTENCE TO BE SERVED IN THE FUTURE UNDER
A FEDERAL JUDGMENT WHICH HE WISHES TO ATTACK, HE SHOULD FILE
A MOTION IN THE FEDERAL COURT WHICH ENTERED THE JUDGMENT.

1. Place of detention, or if on parole, date of parole release
Metropolitan Correctional Center Chicago, IL 60605
2. Name and location of court which sentence was imposed and name
of judge who imposed the sentence which is now under attack.
Samuel Der-yeghiayan United States District Court Northern District of Illinois
219 South Dearborn U.S. Courthouse Chicago, Illinois 60604

3. Date of judgment of conviction:
November 29, 2007
4. Case number: 07 CR 399-1
5. Length of sentence: 64 months
6. Nature of offense involved (all counts): Attempted illegal re-entry by a departed alien
7. What was your plea? (check one)
- (A) Not guilty ()
- (B) Guilty (X)
- (C) Nolo Contendere ()
8. Kind of trial: (check one)
- (A) Jury ()
- (B) Judge only ()
9. Did you testify at the trial?
- Yes () No ()
10. Did you appeal from the judgment of conviction?
- Yes () No (X)
11. If you did appeal, answer the following:
- (A) Name of court _____
- (B) Result _____
- (C) Date of result _____
12. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?
- Yes () No (X)

13. If your answer to (12) was "YES," give the following information:

(A) (1) Name of court_____

(2) Nature of proceeding_____

(3) Grounds Raised_____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes () No ()

(5) Result_____

(6) Date of result_____

(B) As to any second petition, application or motion, give the same information:

(1) Name of the court_____

(2) Nature of proceeding_____

(3) Grounds Raised_____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes () No ()

(5) Result_____

(6) Date of result_____

(C) As to any third petition, application or motion, give the same information:

(1) Name of the court_____

(2) Nature of proceeding_____

(3) Grounds Raised_____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ()

No ()

(5) Result _____

(6) Date of result _____

(D) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes () No ()

(2) Second petition, etc. Yes () No ()

(3) Third petition, etc. Yes () No ()

(E) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

14. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: IF YOU FAIL TO SET FORTH ALL GROUNDS IN THIS MOTION, YOU MAY BE BARRED FROM PRESENTING ADDITIONAL GROUNDS AT A LATER DATE.

A. Ground one Denial of effective assistance of counsel.

Supporting FACTS (tell your story briefly without citing cases or law):

Appointed counsel John M. Beal advised me through his own
translator not to appeal the validity of myt plea of guilty
and the legality of the sentenced imposed stating "it would
be a waste of my time."

B. Ground two Denial of right of appeal.

Supporting FACTS (tell your story briefly without citing cases or law):

Therefore as stated in ground one denial of my right to appea
the validity of my plea of guilty and the legality of my
sentence imposed. Denying my right to direct appeal.

C. Ground three

Supporting FACTS (tell your story briefly without citing cases or law):

Ground four _____

Supporting FACTS (tell your story briefly without citing cases or law:

15. If any of the grounds listed in 14 A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:
- _____
- _____
- _____

16. Do you have any petition or appeal now pending in any court as to the judgment under attack? Yes () No (☒)

(A) If "YES," state the name of the court and the nature of the proceeding: _____

17. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(A) At preliminary hearing John M. Beal Attorney at Law
53 West Jackson Boulevard-Suite 1108 Chicago, IL 60604

(B) At arraignment and plea Same address as preliminary hearing.

(C) At trial_____

(D) At sentencing Same address as preliminary hearing.

(E) On appeal_____

(F) In any post-conviction proceeding_____

(G) On appeal from any adverse ruling in a post-conviction proceeding_____

18. Were you sentenced on more than one count of an indictment, or more than one indictment, in the same court and at approximately the same time? Yes () No (X)

19. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? Yes () No (X)

(A) If so, give the name and location of the court which imposed the sentence to be served in the future:_____

(B) And give the date and length of sentence to be served in the future:_____

WHEREFORE, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

Signature of attorney (if any)

Gilberto Hernandez
Signature of Movant

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 02/19/08
(date)

Signature of Movant